

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Children and Families Committee

BILL: SB 2750

INTRODUCER: Senator Atwater

SUBJECT: The Medicaid Program

DATE: April 7, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Goltry	Whiddon	CF	Pre-meeting
2.	_____	_____	HC	_____
3.	_____	_____	HA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 2750 amends s. 409.912, F.S., directing the Agency for Health Care Administration (AHCA) to work with the Agency for Persons with Disabilities (APD) to develop a Medicaid home and community-based waiver to serve children who have autism spectrum disorder (ASD). The bill defines autism spectrum disorder and provides for the implementation of the waiver contingent upon the availability of funds. It authorizes AHCA to adopt rules to administer the waiver.

This bill substantially amends the following section of the Florida Statutes: 409.912.

II. Present Situation:

Autism spectrum disorders (ASD), a broad continuum of brain illnesses that includes Asperger's disorder, share common genetic roots and essential clinical and behavioral features, although they differ in severity and age of onset. Autism, the most severe of these pervasive developmental disorders, typically begins in early childhood and impairs thinking, feeling, language, and the ability to relate to others.¹

The Diagnostic and Statistical Manual of Mental Disorders DSM-IV-TR (fourth edition, text revision) describes a group of five pervasive developmental disorders as autism spectrum

¹ National Institute of Mental Health, *Autism Spectrum Disorders Research at the National Institute of Mental Health, Fact Sheet*, Bethesda (MD): National Institute of Mental Health, National Institutes of Health, US Department of Health and Human Services, January 2004, cited March, 2006, (NIH Publication No. 04-4508), available from: <http://www.nimh.nih.gov/publicat/autismresfact.cfm>

disorders.² All these disorders are characterized by varying degrees of impairment in communication skills, social interactions, and restricted, repetitive, and stereotyped patterns of behavior. The pervasive developmental disorders, or autism spectrum disorders, range from a severe form, called autistic disorder, to a milder form, Asperger's disorder. If a child has symptoms of either of these disorders but does not meet the specific criteria for either, the diagnosis is called pervasive developmental disorder not otherwise specified (PDD-NOS). Other rare, very severe disorders that are included in the autism spectrum disorders are Rett's disorder and childhood disintegrative disorder.³ Autism is the most diagnosed form of autism spectrum disorders and is second to mental retardation in the prevalence of developmental disability diagnoses in children; it is estimated that mental retardation is diagnosed for as many as five in 500 children. While autism is the most recognized form of pervasive developmental disorders, Asperger's disorder is the second most recognized form. Rett's disorder is a rare form that affects females exclusively and is estimated to occur in one in 10,000 to 15,000 children. All forms can usually be diagnosed by the age of three. The earlier the disorder is diagnosed, the sooner the child can be helped through treatment interventions. Although early intervention has a dramatic impact on reducing symptoms and increasing a child's ability to grow and learn new skills, it is estimated that only 50 percent of children are diagnosed before kindergarten.⁴

“Individuals with autism and ASD vary widely in ability and personality. Individuals can exhibit severe mental retardation or be extremely gifted in their intellectual and academic accomplishments. While many individuals prefer isolation and tend to withdraw from social contact, others show high levels of affection and enjoyment in social situations. Some people with autism appear lethargic and slow to respond, but others are very active and seem to interact constantly with preferred aspects of their environment.”⁵

The autism spectrum disorders are more common in the pediatric population than are some better known disorders such as diabetes, spina bifida, or Down syndrome. Prevalence studies have been done in several states and also in the United Kingdom, Europe, and Asia. Prevalence estimates range from two to six per 1,000 children.⁶ “A recent investigation by the Centers for Disease Control and Prevention (CDC) in Brick Township, New Jersey, found a prevalence rate for autism of 4.0 per 1,000 children and a rate of 6.7 per 1,000 children for the more broadly defined category of autistic spectrum disorders. Although the rates obtained in Brick are high compared to other published reports, it is important to keep in mind that there are no current rates for autism from the United States. Furthermore, investigators in other countries who used intense case finding methods in small communities are finding rates of autism in the range of those found in Brick Township. The interpretation of the results from the Brick prevalence

² American Psychiatric Association. *Diagnostic and Statistical Manual of Mental Disorders: DSM-IV-TR* (fourth edition, text revision). Washington DC: American Psychiatric Association, 2000.

³ NIMH, op cit.

⁴ Filipek PA, Accardo PJ, Baranek GT, Cook Jr. EH, Dawson G, Gordon B, Gravel JS, Johnson CP, Kellen RJ, Levy SE, Minshew NJ, Prizant BM, Rapin I, Rogers SJ, Stone WL, Teplin S, Tuchman RF, Volkmar FR. The screening and diagnosis of autism spectrum disorders. *Journal of Autism and Developmental Disorders*, 1999; 29(2): 439-484.

⁵ Glen Dunlap and Mary-Kay Bunton-Pierce, The ERIC Clearinghouse on Disabilities and Gifted Education, The Council for Exceptional Children, ERIC EC Digest #E583, October 1999, <http://ericec.org/digests/e583.html>

⁶ Filipek, et al, op cit.

investigation will not be fully understood until additional prevalence rates have been obtained from other communities and compared to those in Brick Township.”⁷

Chapter 393, F.S., defines autism as “a pervasive, neurologically based developmental disability of extended duration which causes severe learning, communication, and behavior disorders with age of onset during infancy or childhood. Individuals with autism exhibit impairment in reciprocal social interaction, impairment in verbal and nonverbal communication and imaginative ability, and a markedly restricted repertoire of activities and interests.”⁸ It is included in the conditions that constitute a developmental disability, “a disorder or syndrome that is attributable to retardation, cerebral palsy, *autism*, spina bifida, or Prader-Willi syndrome and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.”⁹

In 1981, Congress authorized states to apply for the waiver of certain federal requirements for the Medicaid program. There were three types of waivers authorized:

- Section 1115 Research & Demonstration Projects: This section provides the Secretary of Health and Human Services broad authority to approve projects that test policy innovations likely to further the objectives of the Medicaid program.
- Section 1915(b) Managed Care/Freedom of Choice Waivers: This section provides the Secretary authority to grant waivers that allow states to implement managed care delivery systems or otherwise limit individuals' choice of provider under Medicaid.
- Section 1915(c) Home and Community-Based Services Waivers: The 1915(c) waiver enables a state to receive Medicaid reimbursement to provide home and community services (other than room and board) to individuals who would otherwise require Medicaid-funded institutional care. Under 1915(c) waiver authority, states can provide services not usually covered by the Medicaid program, as long as these services are required to keep a person from being institutionalized.

Medicaid currently does not cover community based long term care services to individuals diagnosed with autism spectrum disorders. Home and community based long term care services are covered by Medicaid through waivers that must be individually approved by the federal Centers for Medicare and Medicaid Services (CMS). Medicaid has twelve approved home and community based waivers and two awaiting approval. The waiver programs target specific populations, such as frail elders or individuals with developmental disabilities. The state must demonstrate that, without the waiver program, the individuals served would require care in an institutional setting such as a nursing facility or an intermediate care facility for the developmentally disabled (ICF/DD). Florida Medicaid has two approved waiver programs that serve individuals with developmental disabilities. The Developmental Disabilities waiver serves approximately 25,000 individuals and the Family and Supported Living waiver serves approximately 6,000 individuals. Both waivers serve adults and children diagnosed with autism; neither serves individuals diagnosed with the broader array of autism spectrum disorders.¹⁰ At

⁷ Centers for Disease Control and Prevention, Fact Sheet: CDC Examines Autism Among Children, at: <http://www.cdc.gov/ncbddd/fact/autism1.htm>

⁸ s. 393.063(2), F.S.

⁹ s. 393.063(10), F.S.

¹⁰ Agency for Health Care Administration, 2006 Bill Analysis & Economic Impact Statement, Senate Bill 2750, April 2006.

present, there are 1243 individuals with autism on the DD-HCBS waiver and 1496 on the waiting list for waiver services.¹¹

III. Effect of Proposed Changes:

Senate Bill 2750 amends s. 409.912, F.S., directing AHCA to work with APD to develop a home and community-based waiver program to provide personal care assistance, respite, and applied behavioral analysis to children with autism spectrum disorder. The bill defines autism spectrum disorder as “a neurological disorder that affects reasoning, social interaction, and communication; may affect the functioning of the brain; and is usually evident before a child is three years of age.”

The bill directs AHCA to implement the waiver consistent with available funds and any limitations provided in the General Appropriations Act. Senate Bill 2750 also directs AHCA to adopt rules to administer the waiver program.

The bill has an effective date of July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The estimates provided by AHCA and APD indicate that funding required to support the waiver services as provided in this bill would be between \$52,523,467 and \$419,690,981.

¹¹ Agency for Persons with Disabilities, Bill Analysis Senate Bill 2750, April 6, 2006.

(These figures include Federal Financial Participation (FFP) and GR.) These estimates are different because they are based on different assumptions of population served and average cost of services per recipient. These assumptions are described for each agency.

Agency for Health Care Administration

Estimates provided by AHCA are based on the following assumptions:

- There are 3,646,340 children under the age of 18 in Florida (source: 2000 Census);
- The definition of autism spectrum disorder used in the estimate is from the Diagnostic and Statistical Manual of Mental Disorders, rather than the one used in the bill. Using the definition in the bill, the number of children with autism spectrum disorder would be significantly higher than the numbers used below;
- Expenditures for covered waiver services for children with autism spectrum disorder will be similar to average expenditure for the same services for children with autism in existing Medicaid waivers (data source: State FY 2004-2005 Medicaid expenditures);
- Expenditures for covered Medicaid State Plan services for children with autism spectrum disorder will be similar to average expenditure for children in the Medicaid program (data source: State FY 2004-2005 Medicaid expenditures);
- All the children with autism spectrum disorder would qualify financially for Medicaid coverage and meet ICF/DD level of care requirements; and
- The children who would qualify for Medicaid under this new program are not currently being served by Medicaid.¹²

Using the lower estimate of prevalence of ASD, which is 1 in 500, the cost to provide Medicaid services would be over \$52 million. If the higher prevalence rate is used, the cost to provide Medicaid services would be over \$179 million.

Prevalence Rate of Autism Spectrum Disorder	Number of Children with Autism Spectrum Disorder in FL	Average Annual Per Child Expenditure for Specified Medicaid Waiver Services	Average Annual Per Child Expenditure for Medicaid State Plan Services	Total (GR& FFP) Annual Cost of Medicaid Waiver and State Plan Services for Proposed Waiver Population
1 in 500	6,049	\$6,945	\$1,738	\$52,523,467
1 in 166	20,723	\$6,945	\$1,738	\$179,937,809

Source: Agency for Health Care Administration, 2006 Bill Analysis & Economic Impact Statement, Senate Bill 2750, April 2006.

In addition, AHCA would need two Medical/Health Care Program Analysts (pay grade 24) to implement and operate the program. The recurring cost of the positions would be \$125,318 annually. If APD operates the program, AHCA would require only one FTE to develop and oversee the waiver.

¹² Agency for Health Care Administration, 2006 Bill Analysis & Economic Impact Statement, Senate Bill 2750, April 2006.

The funding sources would be as follows :

YEAR 1	YEAR 2
\$73,972,445	\$73,972,445
\$\$105,965,376	\$105,965,376
\$65,269*	\$62,659*
\$180,003,078	\$180,000,468
*Paid at 50% reimbursement rate from FFP	

Agency for Persons with Disabilities

Estimates provided by APD are based on the following assumptions:

- Using the 2000 U.S. Census Report data, there were 2,766,106 children between the ages of three and 18 in Florida.
- Population served by this waiver through APD would include children age four through age 18. Children under age three years and under would be served by Children’s Medical Services in the Department of Health.
- According to the CDC and NIMH, estimates of the prevalence rate of autism spectrum disorder are between one in 500 to one in 166 children. This would represent between 5,532 and 16,663 children who could potentially be served under this waiver.
- Average expenditures are based on actual costs of services for individuals with autism are currently receiving services under the DD-HCBS waiver

According to APD, for Fiscal Year 2004-2005, the average expenditure for services for individuals with autism who are on the HCBS waiver are \$25,187. Using the prevalence rates for ASD and applying an average annual cost of \$25,187 per child served, APD estimates the fiscal impact could be between \$139,334,484 and \$419,690,981 to fully serve this population. Using the current Federal Financial Participation (FFP) match rate of 58.89 percent FFP to 41.11 percent state general revenue funding, this would represent between \$57,266,472 and \$172,534,962 state general revenue funds to fully serve individuals who could potentially meet the diagnostic criteria described in the bill.¹³

VI. Technical Deficiencies:

None.

VII. Related Issues:

The definition in this bill is broader than the definition of autism in ch. 393, F. S., and broader than definitions used by the CDC and the National Institute of Mental Health (NIMH). The bill does not include diagnostic and evaluation criteria to identify children who would be eligible to receive services under the waiver. A wide range of intensity of symptoms and severity of disability is characteristic of individuals who have autism spectrum disorders. Without specific

¹³ Agency for Persons with Disabilities, Bill Analysis Senate Bill 2750, April 6, 2006.

eligibility criteria it is difficult to determine the number of children who could potentially be eligible for services under this waiver.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
